IN THE UNITED STATES DISTRICT COURT FOR THE FILED NORTHERN DISTRICT OF OKLAHOMA

FEB 26 1991

UNITED STATES OF AMERICA,	JACK C. SILVER. CLERK U.S. BISTRICT COURT }
Plaintiff,) 1
vs.	No. 89-CR-90-C
ERIC RAMON BROOKS,	}
Defendant.	} }

ORDER

Before the Court is the motion of defendant Eric Ramon Brooks for release pending appeal.

Defendant's request for release pending appeal from judgment of conviction is made pursuant to Rule 9(b) F.R.Cr.P. This motion involves application of the Bail Reform Act of 1984, 18 U.S.C. §3143(b), which provides the defendant shall be detained unless the Court finds (1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or to the community if released under §3143(b)(1), and (2) that by a preponderance of the evidence, the Court finds the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial under §3143(b)(2).

In his <u>pro</u> <u>se</u> motion, defendant sets forth his basis for asserting that he is not likely to flee or pose a danger to the safety of any other person in the community. However, defendant's

motion is void of any assertion regarding the second statutory requirement, that the appeal involves a substantial question of law or fact likely to result in a reversal or an order for a new trial.

Both statutory requirements must be satisfied for a defendant to qualify for release pending appeal. From a review of the record, the Court is not aware of the existence of any such substantial questions of law or fact likely to result in reversal or new trial.

Accordingly, defendant's motion is denied.

IT IS SO ORDERED this 26 day of February, 1991.

Chief Judge, U. S. District Court

United States District Court

		District of		
UNITE	D STATES OF AMERICA V.		ENT IN A CRIMINAL ommitted On or After No	
Harold	Edward Staples, II	Case Number:	90-CR-075-001-	-C
	(Name of Defendant)		Clark Brewster	
THE DEFENDANT	:		Defendant's Attorney	
	count(s)on count(s)one of th	e Indictment		after a
Accordingly, th	e defendant is adjudged gui	Ity of such count(s), whic		
Title & Section	Nature of Offense		Date Offense Concluded	Count Number(s)
The defendant imposed pursuant t	is sentenced as provided in to the Sentencing Reform Ad nas been found not guilty on	FEB 25 1991 Jack C. Silver, Clerk U.S. DISTRICT COURT pages 2 through 4 et of 1984 count(s)		sentence is
☐ Count(s)	ed as to such count(s). t the defendant shall pay a s	(is)(are) dismi special assessment of \$ _	50	, for count(8)
30 days of any cha	R ORDERED that the defen nge of name, residence, or i sed by this judgment are full	mailing address until all f	ed States attorney for thines, restitution, costs, a	nis district within and special
Defendant's Soc. Sec	c. No.: <u>446-56-9981</u>	-		
Defendant's Date of	Birth:		February 20, 199	
Defendant's Mailing	Address:	. 3/	Date-of Imposition of Sent	ence
1412 North	Second Street		Signature of Judicial Off	
Jenks, Okla	homa 74 0 37		Honorable H. Dal f, U.S. District	
Defendant's Residen			Name & Title of Judicial O	_
	-	-	Date	

Defendant: Harold Edward Staples, III

Judgment—Page ____2 of __4

Case Number: 90-CR-075-001-C

PROBATION

The defendant is hereby placed on probation for a term of _____Five (5) years

While on probation, the defendant shall not commit another Federal, state, or local crime, shall not illegally possess a controlled substance, and shall not possess a firearm or destructive device. The defendant also shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution. The defendant shall comply with the following additional conditions:

- (1) Dispose of all firearms.
- (2) Pay \$5,000 fine.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer:
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two nours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) the defendant shall submit to urinalysis as directed by the Probation Office.

AO 245 S (Rev. 4/90) Sheet 5 - Fine	
Defendant: Harold Edward Staples, III Case Number: 90-CR-075-001-C	Judgment—Page 3 of 4
FINE	
The defendant shall pay a fine of \$ _5,000 T or supervision.	he fine includes any costs of incarceration and/
☐ This amount is the total of the fines imposed on individua	ıl counts, as follows:
☐ The court has determined that the defendant does not ha	we the ability to pay interest. It is ordered that:
The interest requirement is waived.The interest requirement is modified as follows:	
This fine plus any interest required shall be paid: in full immediately. in full not later than	
in equal monthly installments over a period of date of this judgment. Subsequent payments are due in installments according to the following schedule of	monthly thereafter.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. \S 3614.

AO 245 S (Rev. 4/90) Sheet 7 - Statement of Rea	
Defendant: Harold Edward Staples, III Case Number: 90-CR-075-001-C	Judgment-Page4 of4
STATEMENT C	F REASONS
☐ The court adopts the factual findings and guideline a	application in the presentence report.
AC .	₹
The court adopts the factual findings and guideline a (see attachment, if necessary): The Court finds the defendant purposes and reduces the offense level to 6	possessed the firearm in question for sporting
Guideline Range Determined by the Court:	
Total Offense Level:6	
Criminal History Category:	
Imprisonment Range: 0 to 6 months	
Supervised Release Range: $\frac{2}{}$ to $\frac{3}{}$ years	
Fine Range: \$ to \$ to	
☐ Fine is waived or is below the guideline rain Restitution: \$	nge, because of the defendant's inability to pay.
☐ Full restitution is not ordered for the follow	ing reason(s):
The sentence is within the guideline range, that rangereason to depart from the sentence called for by applications.	
Ó	Ŕ
☐ The sentence is within the guideline range, that range for the following reason(s):	ge exceeds 24 months, and the sentence is imposed
0	R
The sentence departs from the guideline range	
☐ upon motion of the government, as a result of de	fendant's substantial assistance.
☐ for the following reason(s):	

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
Plaintiff,) }
v.)) No. 90-CR-91-C
JOSHUA ALAN AVEN	TLED
Defendant.	FEB 19 1991

MOTION AND ORDER OF DISMISSAL

Jack C. Silver, Clerk U.S. DISTRICT COURT

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, and by leave of court endorsed hereon, the United States Attorney for the Northern District of Oklahoma hereby moves to dismiss without prejudice Counts Two and Three of the Indictment against Joshua Alan Aven, defendant.

TONY M. GRAHAM United States Attorney

SUSAN K. MORGAN

Assistant United States Attorney

Leave of court is granted for the filing of the foregoing motion to dismiss and the Court hereby orders dismissal of the requested Counts of the Indictment.

(Signed) H. Dale Cook

H. DALE COOK

United States District Judge

Date:

SKM:bjk

United States District Court

NORTHE	District of	OKLAHOMA	
UNITED STATES OF AME V.	-, ., -, -		A CRIMINAL CASE On or After November 1, 1987)
	Case	Number: 90-CR-0	91-001-C
JOSHUA A. AVEN		30 011 0	,
(Name of Defendant)		Stephen Gr	
THE DEFENDANT:		Defenda	int's Attorney
 □ pleaded guilty to count(s) □ was found guilty on count(s) □ plea of not guilty. 	Four of Indict	ment	after a
Accordingly, the defendant is adju	dged guilty of such cou	nt(s), which involve	the following offenses:
Title & Section Nature of Offens	s e		ate Offense Count Concluded Number(s)
18 USC 1029(a)(2) UNLAWFU	L USE OF ACCESS	DEVICE	4-89 I
18 USC 1029(a)(2) UNLAWFU	L USE OF ACCESS	DEVICE	9-89 IV
			ILED
			FEB 19 1991
The defendant is sentenced as proimposed pursuant to the Sentencing R ☐ The defendant has been found not and is discharged as to such counts ☐ Count(s) ☐ It is ordered that the defendant sha Counts I & IV IT IS FURTHER ORDERED that the days of any change of name, resident.	eform Act of 1984 guilty on count(s) (s) (is)(i ll pay a special assessr, which shall be the defendant shall notifence, or mailing address	are) dismissed on the nent of \$\$10 due 🔀 immediately	e motion of the United States O, for count(s) y
assessments imposed by this judgmer	nt are fully paid.		
Defendant's Soc. Sec. No.: 426-06-	1759		
Defendant's Date of Birth: 08-09-6	5		y 11, 1991
Defendant's Mailing Address:		Date of Ipag	position of Sentence
Tulsa, Oklahoma	Sates District Court SS Control of Oklahoma SS Control of Oklaho	H. Dale	of Judicial Officer Cook, Chief istrict Judge
Defendant's Residence Address:	ing and Jawa Siver, Clerk	Name & Tit	le of Judicial Officer
Same	Ry Ry	00	D-1-
	Denuty	,	Date

Defendant: J	OSHUA A. AVEN		Judgment-Page -	of _	5
	90-CR-091-001-C	IMPRISONMENT			
The defend			to a Dumanu of Deinama	4 a la a imamuia	
a term of	lant is hereby committed to the of 40 months	custody of the United Stat	es Bureau of Prisons	to be impris	onea for
	Ct. I - 40 months				
	Ct. IV - 40 months t	o run concurrent	with sentence	imposed	in
☐ The court ma	akes the following recommenda	ations to the Bureau of P	risons:		
☐ The defendant s	s remanded to the custody of the Unit shall surrender to the United States ma a.m. p.m. on	ed States marshal. arshal for this district,			
☐ as notifice ☐ as notifice ☐ the defendant second ☐ before 2 ☐ as notifice	ed by the United States marshal. shall surrender for service of sentence	at the institution designated b	by the Bureau of Prisons,		
		RETURN			
I have exec	cuted this judgment as follows:				
Defendant	delivered on				
			United States Mars	hal	
		Ву			

Deputy Marshal

Defendant: JOSHUA A. AVEN
Case Number: 90-CR-091-001-C

Judgment—Page 3 of 5

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of	
3 years	

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- ☐ The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.
- The defendant shall not possess a firearm or destructive device.

Restitution as more fully described on page 4 of this Judgement & Committmen Order.

That the defendant provide the probation officer with access to any requeste financial information.

That the defendant be prohibited from entering into any business transaction incurring any new credit charges or opening additional lines of credit without prior approval of the U. S. Probation Office.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) That the defendant submit to urinalysis testing on a random basis as direct by the U. S. Probation Office.

•	, address.
AO 245 S (Rev. 4/90) Sheet 6 - Restitution and For Siture	
Defendant: JOSHUA A. AVEN Case Number: 90-CR-091-001-C RESTITUTION AND FO	Judgment—Page 4 of 5
DESTITUTIO	············
RESTITUTIO	
The defendant shall make restitution to the following pers	
Name of Payee	Amount of Restitution
Citicorp Credit Services, Inc. 2201 North Central Expressway, Suit Richardson, Texas 75080	\$ 22,348.81 e 201
American Express 602 Sawyer, Suite 440 Houston, Texas 77007	\$ 6,695.74
J. C. Penny & Company 8140 S. Holly Littleton, Colorado 80122	6,318.91
Payments of restitution are to be made to: ☐ the United States Attorney for transfer to the payee(s). ☐ the payee(s).	
Restitution shall be paid:	
 in full immediately. in full not later than in equal monthly installments over a period of this judgment. Subsequent payments are due monthly 	. months . The first payment is due on the date of thereafter.
☑ in installments according to the following schedule of p U. S. Probation Office.	payments: as directed by the
Any payment shall be divided proportionately among the pay	rees named unless otherwise specified here.
FORFEITUR	E
☐ The defendant is ordered to forfeit the following propert	

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Defendant: JOSHUA A. AVEN Case Number: 90-CR-091-001-C	Judgment—Page _5 of _5
STATEMEN	IT OF REASONS
☐ The court adopts the factual findings and guideling	ne application in the presentence report.
	OR
The court adopts the factual findings and guideling (see attachment, if necessary):	ne application in the presentence report except
Evidence is not sufficient to war Obstruction of Justice.	rant a 2 point enhancement for
Guideline Range Determined by the Court:	
Total Offense Level: 14	
Criminal History Category:VI	
Imprisonment Range: 37 to 46 months	
Supervised Release Range: 2 to 3 years	
Fine Range: \$ 4,000 to \$ 288,098	
X Fine is waived or is below the guideline	e range, because of the defendant's inability to pay.
Restitution: \$ 35,363.46	
☐ Full restitution is not ordered for the fo	llowing reason(s):
reason to depart from the sentence called for by	range does not exceed 24 months, and the court finds no application of the guidelines.
	OR
☐ The sentence is within the guideline range, that for the following reason(s):	range exceeds 24 months, and the sentence is imposed
	OR
The sentence departs from the guideline range	
upon motion of the government, as a result o	f defendant's substantial assistance.
☐ for the following reason(s):	

AO 245 S (Rev. 4/90) Sheet 7 - Statement of Reas

FILED

United States District Court FEB 19 1991

Northern	747444 Die	trict of	0k1al	_		CD I o 1931
UNITED STATES OF AMER		JUE	OGME	NT IN A	CRIMINA	C. Silver, Clerk DISTRICT COURT AL CASE lovember 1, 1987)
OLIVER WAYNE PERRY		Case Num	nber: (90-CR-08	8-001-B	· · · · ·
(Name of Defendant)		Steve	e Greut			
THE DEFENDANT:				Detenda	nt's Attorney	
□ pleaded guilty to count(s) one_ of i □ was found guilty on count(s) plea of not guilty.						
Accordingly, the defendant is adjudg	ged guilty of s	uch count(s)), which	involve t	he following	offenses:
<u>Title & Section</u> <u>Nature of Offense</u>					ate Offense Concluded	Count <u>Number(s)</u>
Title 18, United Use of An United			vice	10	/10/89	I
States Code, to Obtain In Section 1029(a)(2) \$1,000	tems Worth 1	More Than			Northern Distr I hereby co	s District Court) SS rict of Oklahoma) SS ertify that the foregoing of the original on file
The defendant is sentenced as provi imposed pursuant to the Sentencing Ref	orm Act of 198	84		•		
and is discharged as to such count(s) Count(s) It is ordered that the defendant shall p		(is)(are)	dismiss	sed on the	e motion of t	the United States.
One of the Indictment	, which	shall be due	e 😨 imi	mediately	☐ as follo	ows:
IT IS FURTHER ORDERED that the 30 days of any change of name, residence assessments imposed by this judgment a	ce, or mailing	nall notify the address unt	e Unite til all fir	d States a nes, restitu	attorney for ution, costs,	this district within and special
Defendant's Soc. Sec. No.: 445-74-3769						
Defendant's Date of Birth: 12/12/62		F		<u>cy 12, 1</u>		
Defendant's Mailing Address:		1/10) 	ate of impl	gaition of Ser	THEOLE
10314 South 234th East Avenue		-poo		Signature	of Judicial O	fficer
Broken Arrow, Oklahoma 74014			Chomas	R. Bret istrict	t	
Defendant's Residence Address:					e of Judicial	Officer
same			<u></u>	10,	Date	

AO 245 S (Rev. 4/90) Sheet 2 - Imprisonment	
Defendant: 01iver Wayne Perry Case Number: 90-CR-088-001-B	Judgment-Page 2 of 5
	ISONMENT
The defendant is hereby committed to the custody a term of12 months	y of the United States Bureau of Prisons to be imprisoned for
a term or	
	-
☐ The court makes the following recommendations to the court makes the court make	to the Bureau of Prisons:
The defendant is remanded to the custody of the United State ☐ The defendant shall surrender to the United States marshal for	es marshal. or this district
a.m. p.m. on	Tino district,
 as notified by the United States marshal. 	
☐ The defendant shall surrender for service of sentence at the in ☐ before 2 p.m. on	nstitution designated by the Bureau of Prisons,
as notified by the United States marshal.as notified by the probation office.	
R	ETURN
I have executed this judgment as follows:	
Defendant delivered on to	at
	, with a certified copy of this judgment.
	United States Marshal
	By

Deputy Marshal

AO 245 S (Rev. 4/90) Sheet 3 - Supervised Release			
Defendant: Oliver Wayne Perry Case Number: 90-CR-088-001-B	Judgment-Page 3	_ of _	5
	SUPERVISED RELEASE		
Upon release from imprisonment, t	the defendant shall be on supervised release for a term of		
illegally possess a controlled substance adopted by this court (set forth below). supervised release that the defendant p	efendant shall not commit another federal, state, or local crime. The defendant shall comply with the standard conditions the lift this judgment imposes a restitution obligation, it shall be pay any such restitution that remains unpaid at the commendant shall comply with the following additional conditions:	nat hav a cond	e been dition of
The defendant shall report in persor within 72 hours of release from the control of the control	n to the probation office in the district to which the defendate custody of the Bureau of Prisons.	nt is re	eased
$\ \square$ The defendant shall pay any fines that	at remain unpaid at the commencement of the term of superv	∕ised r	elease.
☑ The defendant shall not possess a fi	irearm or destructive device.		
The defendant shall participal U.S. Probation Office.	pate in a drug treatment program as directed by t	:he	

STANDARD CONDITIONS OF SUPERVISION

The defendant shall pay restitution as set forth on page 4 of this Judgment.

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) the defendant shall submit to urinalysis testing as directed by the U.S. Probation Office

Defendant: Oliver Wayne Perry Case Number: 90-CR-088-001-B	Judgment-Page4 of5_
70-0K-000-001-B	RESTITUTION AND FORFEITURE
	RESTITUTION
The defendant shall make restitut	tion to the following persons in the following amounts:
Name of Payee	Amount of Restitution
First Bank Card Center (VISP.O. Box 3437 Omaha, Nebraska 68107 Acct. No. 4418023726238157	\$2,664.34
Payments of restitution are to be made. ☐ the United States Attorney for ☐ the payee(s).	
Restitution shall be paid:	
☐ in full immediately.	
in full not later than	
	over a period of months. The first payment is due on the date of ments are due monthly thereafter.
in installments according to the	e following schedule of payments:
	stitution to the United States Attorney for irected by the U.S. Probation Office.
Any payment shall be divided propor	tionately among the payees named unless otherwise specified here.
	FORFEITURE
☐ The defendant is ordered to for	feit the following property to the United States:
	•

Defendant: Oliver Wayne Perry Case Number: 90-CR-088-001-B	Judgment-Page5_ of5_
STATEMENT OF REASO	ONS
The court adopts the factual findings and guideline application	in the presentence report.
OR	
☐ The court adopts the factual findings and guideline application (see attachment, if necessary):	n in the presentence report except
Guideline Range Determined by the Court:	
Total Offense Level:	
Criminal History Category:V	
Imprisonment Range: 12 to 18 months	
Supervised Release Range: _2 to3_ years	
Fine Range: \$ 2,664.34 to \$ 7,993.02	
☐x Fine is waived or is below the guideline range, beca	use of the defendant's inability to pay.
Restitution: \$ 2,664.34	
☐ Full restitution is not ordered for the following reason	n(s):
The sentence is within the guideline range, that range does not reason to depart from the sentence called for by application of	w - a
OR	
☐ The sentence is within the guideline range, that range exceed for the following reason(s):	ds 24 months, and the sentence is imposed
OR	
The sentence departs from the guideline range	
$\hfill\Box$ upon motion of the government, as a result of defendant's	substantial assistance.
☐ for the following reason(s):	

ATT 6 000-1000 722 449/10296

£O 245 S (Rev. 4/90) Sheet 7 - Statement of Reas

United States District Court FEB 19 1991

NORTHERN	DISTRICT OF	OKLAHOMA	lack	C. Silver,	Clerk
			U.S.	C. Silver,	COUK

UNITED STATES OF AMERICA

٧.

JUDGMENT IN A CRIMINAL CASE

NED A. KALED

7921 S. 76th E. Ave. Tulsa, Oklahoma 74133

(Name and Address of Defendant)

Patrick Malloy, III

Case Number: 90-CR-072-001-B

Pat Malloy Terry Malloy

Attorney for Defendant

THE DEFENDANT	ENTERED	Δ	PLEA	OF:
IME DEFENDANT	ENIENCU.	m		Ο Ι.

mot guilty □ note contendere as to count(st) <u>One of the information</u> not guilty as to count(s)	, and
THERE WAS A: [xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx	
THERE WAS A: [finding verdict] of not guilty as to count(s) judgment of acquittal as to count(s) The defendant is acquitted and discharged as to this/these count(s).	

THE DEFENDANT IS CONVICTED OF THE OFFENSE(6) OF:

Mail Fraud, Title 18, United States Code, Section 1340

United States District Court)
Northern District of Oklahoma) SS
I hereby certify that the foregoing is a true copy of the original on file in this Court.

IT IS THE JUDGMENT OF THIS COURT THAT:

The imposition of sentence is suspended and defendant is placed on probation for four (4) years. The defendant is to pay a \$5,000 fine as directed by the U.S. Probation Office. As a condition of probation, the defendant is to provide any and all financial records requested by the U.S. Probation Office that may be necessary to monitor his financial affairs. Further, as a condition of probation the defendant is to pay restitution in the amount of \$1,407.78 to Sterling Technologies, Incorporated, in care of Fred Woodson, Trustee for Sterling Technologies' bankruptcy proceeding (Ned Kaled), 111 West Fifth Street, Tulsa, Oklahoma. Restitution should be paid by December 31, 1991, as directed by the U.S. Probation Office.

In addition to any conditions of probation imposed above, IT IS ORDERED that the conditions of probation set out on the reverse of this judgment are imposed.

CONDITIONS OF PROBATION

Where probation has been ordered the defendant shall:

February 12, 1991

Date of Imposition of Sentence

Signature of Judicial Officer

- refrain from violation of any law (federal, state, and local) and get in touch immediately with your probation officer if arrested or questioned by a law-enforcement officer;
- (2) associate only with law-abiding persons and maintain reasonable hours;
- (3) work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. (When out of work notify your probation officer at once, and consult him prior to job changes);
- (4) not leave the judicial district without permission of the probation officer;
- (5) notify your probation officer immediately of any changes in your place of residence;
- (6) follow the probation officer's instructions and report as directed.

The court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

IT IS FURTHER ORDERED that the defendant shall pay a total special assessment of \$_50.00 pursuant to Title 18, U.S.C. Section 3013 for count(s) One of the Information as follows:

Count One - \$50.00, due immediately

IT IS FURTHER ORDERED THAT counts <u>One through Twenty-three of the Indictment</u> are DISMISSED on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall pay to the United States attorney for this district any amount imposed as a fine, restitution or special assessment. The defendant shall pay to the clerk of the court any amount imposed as a cost of prosecution. Until all fines, restitution, special assessments and costs are fully paid, the defendant shall immediately notify the United States attorney for this district of any change in name and address.

IT IS FURTHER ORDERED that the clerk of the court deliver a certified copy of this judgment to the United States marshal of this district.

☐ The Court orders commitment to the custody of the Attorney General and recommends:

The Honorable Thomas R. Brett			
U.S. District Judge Name and Vitle of Judicial Officer			
Date		· · · · · · · · · · · · · · · · · · ·	
		RETURN	
I have executed this Judgment as follows	:		
		· · · · · · · · · · · · · · · · · · ·	
	· · · · · · · · · · · · · · · · · · ·		
Defendant delivered on Date	to _		at
Date			, the institution designated by the Attorney
General, with a certified copy of this Judg	ment in	a Criminal Case.	, the institution designated by the Attorney
		United	States Marshal

Deputy Marshal

United States District Court

	NORTHE		•	OKLA		
	STATES OF AMER	RICA	(For Of	JUDGME fenses Co	NT IN A CRIMIN	November 1, 1987)
Rober	v. t Leslie John	PonIL	Ba	Number:	89-CR-137-	001-C
	Name of Defendant)	FEB 19			tanley Monroe	
`	,				Defendant's Attorney	
THE DEFENDANT:		Jack C. Sil	ver, Cleri	(T		
☐ pleaded guilty to € ■ was found guilty € plea of not guilty.	count(s) on count(s)Twoi	U.S. DISTRI through S	ixty-t	hree of		
Accordingly, the	defendant is adjude	ged guilty of	such cou	nt(s), whic	h involve the followi	ng offenses:
Title & Section	Nature of Offense				Date Offense Concluded	Count Number(s)
18:1956(a)(1) (A)(i)	Laundering	of Moneta	ry Ins	trument	s 1-17-89	2,3
18:1957	Engaging in	Monetary	Trans	actions	in	
	Property De	rived fro	m Spec	ified U	nlawful	
	Activity				2-16-89	4 throug 63
imposed pursuant to ☑ The defendant ha and is discharged ☐ Count(s) ☐ List is ordered that Two_through	the Sentencing Reas been found not go as been found not go d as to such count(s the defendant shall Sixty-three	form Act of 1 uilty on coun). pay a specia , whic	984 t(s) (is)(a ll assessn h shall be	One_of_ are) dismis nent of \$ _ duexx in	ised on the motion of 3.100 (Total) mmediately \square as form	of the United States, for count(sollows:
30 days of any chan assessments impos	ge of name, resider	nce, or mailin	ig addres:	s until all fi	ed States attorney fonds, restitution, cos	is, and special
Defendant's Soc. Sec.	No.: 548-53-8	884				
Defendant's Date of B	irth: 8-12-43		_		11 Februar Date of Imposition of S	
Defendant's Mailing A	ddress:	•	ر.	2/	Date of imposition of s	septience /
2154 East V	iking Road				Signature of Judicial	Officer Officer
Las Vegas,		ited States Distr	ict Court)		Signature of Judicial norable H. Da U.S. Distric	
Defendant's Residenc	e Address:	rthern District of it includy contify to a money of the money of the	at the forego original on t	in g le	Name & Title of Judici	· · · · · · · · · · · · · · · · · ·
			Charlety (Date	

D - (1		
	Johnson, Robert L. 89-CR-137-001-C	Judgment – Page <u>2</u> of _4
		IMPRISONMENT
The defend	dant is hereby committed to t 405 months as fo	the custody of the United States Bureau of Prisons to be imprisoned for
<u> </u>	Count Two	240 months
	Count Three	165 months, consecutive to sentence imposed in Count Two
	Count Four	10 years, each count, to run concurrently with
	Through Sixty-three	sentence in Count Three
	,	
The court m	alcoatha following rocommo	andations to the Bureau of Drigons
The court n	iakes the following recomme	endations to the Bureau of Prisons:
The defendant	is remanded to the custody of the shall surrender to the United State	United States marshal.
	a.m.	is maistral to the distret,
as notifi	p.m. onied by the United States marshal.	
before 2	2 p.m. on	ence at the institution designated by the Bureau of Prisons,
☐ as notifi ☐ as notifi	ied by the United States marshallied by the probation office.	
		RETURN
I have exe	cuted this judgment as follow	ws:
5 ()		
Defendant	delivered on	toat
		, with a certified copy of this judgment.
		United States Marshal

Ву ...

Deputy Marshal

AO 245 S (Rev. 4/90) Sheet 3 - Supervised Release	
Defendant: Johnson, Robert Leslie Case Number: 89-CR-137-001-C SUPERVISED REL	Judgment—Page3 of4
Upon release from imprisonment, the defendant shall be o	n supervised release for a term of
Three Years	
While on supervised release, the defendant shall not commi illegally possess a controlled substance. The defendant shall coadopted by this court (set forth below). If this judgment impose supervised release that the defendant pay any such restitution term of supervised release. The defendant shall comply with the The defendant shall report in person to the probation office within 72 hours of release from the custody of the Bureau of	omply with the standard conditions that have been is a restitution obligation, it shall be a condition of that remains unpaid at the commencement of the ite following additional conditions: In the district to which the defendant is released
$\ \square$ The defendant shall pay any fines that remain unpaid at the α	commencement of the term of supervised release.
The defendant shall not possess a firearm or destructive de	vice.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) the defendant shall submit to urinalysis as requested by the Probation Office.

1	AO 245 S (Rev. 4/90) Sheet 7 - Statement of Rea.	
	Defendant: Johnson, Robert Leslie Judgment—Page	of _4
	STATEMENT OF REASONS	
	oxtimes The court adopts the factual findings and guideline application in the presentence report.	
	OR	
	☐ The court adopts the factual findings and guidefine application in the presentence report (see attachment, if necessary):	except
	Guideline Range Determined by the Court:	
	Total Offense Level:37	
	Criminal History Category:	
	Imprisonment Range: 324 to 405 months	
	Supervised Release Range: _2_ to _3_ years	
	Fine Range: \$ 2,823,579 to \$ 60,000,000	
	Fine is waived or is below the guideline range, because of the defendant's inab	ility to pay.
	Restitution: \$ 1,836,871.74	
	Full restitution is not ordered for the following reason(s):	
	Due to the defendants lengthy incarceration, and the seizure of he by the Government.	is assets
	☐ The sentence is within the guideline range, that range does not exceed 24 months, and t reason to depart from the sentence called for by application of the guidelines.	he court finds no
	OR	
	The sentence is within the guideline range, that range exceeds 24 months, and the sentence for the following reason(s):	·
	Sentence was at the top of the guideline range due to the extensive the defendant's criminal activity.	nature of
	OR	
	The sentence departs from the guideline range	
	$\hfill \square$ upon motion of the government, as a result of defendant's substantial assistance.	
	☐ for the following reason(s):	

:

LITE (1201-1001-779,449/1098

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	FILED
Plaintiff,))	FEB 11 1991
vs.)	Jack C. Silver, Clerk U.S. DISTRICT COURT
BILLY JACK GRAY,)	U.S. DISTRICT COURT
Defendant.)) No	. 91-CR-002-C

MOTION AND ORDER OF DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, and by leave of court endorsed hereon, the United States Attorney for the Northern District of Oklahoma hereby moves to dismiss without prejudice the Indictment against Billy Jack Gray, defendant.

APPROVED:

TONY M. GRAHAM United States Attorney

BILLY JACK GRAY, Defendant

Assistant United States Attorney

PATRICK A. WILLIAMS

His Attorney

Leave of court is granted for the filing of the foregoing motion to dismiss and the Court hereby orders dismissal of the requested Indictment, without prejudice.

(Signed) H. Dale Cook

United States District Judge

Date:

FILED

IN		TATES DISTRICT COURT FOR DISTRICT OF OKLAHOMA	THE FEB A 1001
UNITED STATES	OF AMERICA, Plaintiff,)))	Jack C. Silver, Clerk U.S. DISTRICT COURT
v.) No. 90-CR-110-E	
MICHAEL BARON	SEELY,)	
	Defendant.))	

JRDER

Upon motion of the government this Court hereby dismisses Count One of the Indictment.

2/8/41

S/ JAMES O ELECT

JAMES O. ELLISON United States District Judge

United States District Court

FEB " 8 1991

	NORTHERN	District of _	OKLAHOMA		Jack C. Silver, C U.S. DISTRICT CC
UNITE	ED STATES OF AMERICA V.	_			MINAL CASE After November 1, 198
MICHA	EL BARON SEELY	Case 1	Number: 90-	CR-110-001	- E
	(Name of Defendant)	M	ark Lyons	Defendant's Atto	
THE DEFENDANT			L	Jerendant's Atto	mey
 □ pleaded guilty t □ was found guilt plea of not guilt	o count(s) <u>Two of the</u> y on count(s) <u> </u>	Indictment			after
Accordingly, the	ne defendant is adjudged gui	lty of such cour	nt(s), which in	volve the follo	owing offenses:
Title & Section	Nature of Offense			Date Offe Conclude	
18:511(a)	Removal of Vehicle Identification Numb	er	1	May 28, 199	90 T wo
and is discharg Count(s) One It is ordered tha Two of the IT IS FURTHE 30 days of any cha	has been found not guilty on ed as to such count(s). of the Indictment at the defendant shall pay a s Indictment ER ORDERED that the defendance of name, residence, or upsed by this judgment are fulled.	(is) (is) (is) (is) (is) (is) (is) (is)	are) dismissed thent of \$50 due √ imme y the United S	d on the motion of the diately attention of th	on of the United State, for count as follows: ey for this district with
Defendant's Soc. Se	ec. No.: <u>440-68-9941</u>				
Defendant's Date of	Birth: _08=08=58	. —·	January 2	4, 1991 of Imposition	of Sentence
Defendant's Mailing	Address:		Tas		0000
P. O. Box 694			Sig	gnature of Jud	licial Officer
Nowata, Oklaho	ma 74048	· } \$	James O. El	lison, U.S	. District Judge
Defendant's Reside	nce Address:	5 5 333	Nam つ	ne & Title of Ju	udicial Officer
Same	in the feeth	ein ur, Gierk	2/	0 / 9/ Date	
	<u> </u>	onety -			

Defendant: Michael Baron Seely Case Number: 90-CR-110-001-E

Judgment-Page 2 of 4

PROBATION

The defendant is hereby placed on probation for a term of	Three (3) Years
---	-----------------

While on probation, the defendant shall not commit another Federal, state, or local crime, shall not illegally possess a controlled substance, and shall not possess a firearm or destructive device. The defendant also shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution. The defendant shall comply with the following additional conditions:

- 1) Participate in substance abuse treatment and monitoring as directed by the U. S. Probation Office.
- 2) Pay restitution in the amount of \$345.14 to Miami Ford Motor Co., and \$12,612.01, less the amount the vehicle sells for at auction, to American Road Insurance Co., at a rate to be determined by the U. S. Probation Office.
- 3) The defendant shall serve 67 days in community confinement as a direct Court commitment in the Salvation Army Community Corrections Center commencing on February 19, 1991.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer:
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court:
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to drug analysis as directed by the U.S. Probation Office.

AO 245 S (Rev. 4/90) Sheet 6 - Restitution and Forfeiture	
Defendant: Michael Baron Seely Case Number: 90-CR-110-001-E	Judgment—Page _3 of _4
	ON AND FORFEITURE
	ESTITUTION
The defendant shall make restitution to the fol	Amount of Restitution
Name of Payee	
Miami Ford Motor Co. 521 North Main Miami, OK 74354	\$345.14
American Road Insurance #4 Park Lane Blvd. 460	
Dearborn, Michigan 48126	\$12,612.01
	(Less the amount the vehicle sells for at auction)
Payments of restitution are to be made to:	
☐ the United States Attorney for transfer to the	ne payee(s).
the payee(s).	
Restitution shall be paid:	
☐ in full immediately. ☐ in full not later than	
	d of months. The first payment is due on the date of due monthly thereafter.
💂 in installments according to the following so	chedule of payments:
At a rate to be determined by the pa	
Any payment shall be divided proportionately am	nong the payees named unless otherwise specified here.
	ORFEITURE
☐ The defendant is ordered to forfeit the follow	wing property to the United States:

ما والمريزة والأمار

AO 245 S (Rev. 4/90) Sheet 7 - Statement of Rea.	
Defendant: Michael Baron Seels Case Number:	y Judgment-Page _4 of _4
	STATEMENT OF REASONS
The court adopts the factual find	ings and guideline application in the presentence report.
	OR
☐ The court adopts the factual find (see attachment, if necessary):	ings and guideline application in the presentence report except
Guideline Range Determined by t	he Court:
Total Offense Level:9	
Criminal History Category:I	
Imprisonment Range: _4 to	
Supervised Release Range:0	
Fine Range: \$ _1,000 to \$	
· ·	low the guideline range, because of the defendant's inability to pay.
Restitution: \$ _12,957.15	
☐ Full restitution is not or	rdered for the following reason(s):
	line range, that range does not exceed 24 months, and the court finds no
	OR
☐ The sentence is within the guide for the following reason(s):	line range, that range exceeds 24 months, and the sentence is imposed
	OR
The sentence departs from the guid	deline range
□ upon motion of the governme	ent, as a result of defendant's substantial assistance.
x for the following reason(s):	The defendant served 53 days in jail prior to being sentenced.



United States District Court

FEB 8 1991

NORTHERN

DISTRICT OF

OKLAHOMA

Jack C. Silver, Clerk

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

JAMES HOMER COLTHARP 5241 Enchanted Lane Dallas, Texas 75227

Case Number:

90-CR-032-001-B

(Name and Address of Defendant)

Attorney for Defendant

David Booth

THE DEFENDANT ENTERED A PLEA OF:	
<pre>[XX guilty □ nolo contendere] as to count(\$) One (1) of the Information □ not guilty as to count(s)</pre>	, and
THERE WAS A: [XX] finding	
THERE WAS A: [finding verdict] of not guilty as to count(s) judgment of acquittal as to count(s) The defendant is acquitted and discharged as to this/these count(s).	

THE DEFENDANT IS CONVICTED OF THE OFFENSE(S) OF:

Conspiracy to Manufacture and Distribute Methamphetamine Title 21, United States Code, Section 846

IT IS THE JUDGMENT OF THIS COURT THAT:

The defendant is committed to the custody of the Bureau of Prisons for a term of twelve (12) years, pursuant to Title 18, United States Code, Section 4208(b)(2).

stations District Court) ss all m District of Oklahama) ss wheely condity that the foregoing is a true copy of the original on the in this Court.

Jack C. Silver Lerk

Deputy

In addition to any conditions of probation imposed above, IT IS ORDERED that the conditions of probation set out on the reverse of this judgment are imposed.

CONDITIONS OF PROBATION

Where probation has been ordered the defendant shall:

- (1) refrain from violation of any law (federal, state, and local) and get in touch immediately with your probation officer if arrested or questioned by a law-enforcement officer;
- (2) associate only with law-abiding persons and maintain reasonable hours;
- (3) work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. (When out of work notify your probation officer at once, and consult him prior to job changes);
- (4) not leave the judicial district without permission of the probation officer;
- (5) notify your probation officer immediately of any changes in your place of residence;
- (6) follow the probation officer's instructions and report as directed.

The court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

IT IS FURTHER ORDERED that the defendant shall pay a total special assessment of \$____50 pursuant to Title 18, U.S.C. Section 3013 for count(8) ____One (1) of the Information _____as follows:

Ct. One - \$50

IT IS FURTHER ORDERED THAT &XXXXX the original Indictment as to this defendant XXXXIISMISSED on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall pay to the United States attorney for this district any amount imposed as a fine, restitution or special assessment. The defendant shall pay to the clerk of the court any amount imposed as a cost of prosecution. Until all fines, restitution, special assessments and costs are fully paid, the defendant shall immediately notify the United States attorney for this district of any change in name and address.

IT IS FURTHER ORDERED that the clerk of the court deliver a certified copy of this judgment to the United States marshal of this district.

☐ The Court orders commitment to the custody	of the Attorney General and recommends:
February 8, 1991	
Date of Imposition of Sentence	
Signature of Judicial Officer	
Thomas R. Brett, U. S. District Judge	
Name and Title of Judicial Officer	
2-8-9/	
Date	

I have executed this Judgment as follows:

Defendant delivered on _______ to _______at

Date _______, the institution designated by the Attorney

General, with a certified copy of this Judgment in a Criminal Case.

RETURN

United States Marshal

By

is

Deputy Marshal

FILED

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

FEB & 1991

UNITED STATES OF AMERICA, Plaintiff,))	Jack C. Silver, Clerk U.S. DISTRICT COURT
v.) No. 90-CR-114-E	
CARL CAMPBELL,))	
Defendant.)	

MOTION AND ORDER OF DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, and by leave of court endorsed hereon, the United States Attorney for the Northern District of Oklahoma hereby moves to dismiss without prejudice the Indictment filed September 6, 1990, against Carl Campbell, defendant.

TONY M/ GRAHAM United States Attorney

ORDON B. CECIL
Assistant United States Attorney

Leave of court is granted for the filing of the foregoing motion to dismiss and the Court hereby orders dismissal of the requested Indictment.

SZ JAJANS O. ELLISON

JAMES O. ELLISON United States District Judge

Date: 2/4/91

GBC:ssq

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

FEB - 1 1391

UNITED STATES OF AMERICA, Plaintiff,	JACK C.SILVER, CLERK U.S. DISTRICT COURT))
vs.)) No. 90-CR-75-C
HAROLD E. STAPLES, III,)
Defendant.	,)

ORDER

Before the Court is the motion of the defendant to set aside verdict and enter judgment of acquittal, pursuant to Rule 29(c) F.R.Cr.P. Defendant was found guilty of a violation of 26 U.S.C. §5861(d) on December 19, 1990.

The defendant's contentions regarding scienter are dealt with easily. The Court followed the holding of <u>United States v. Mittleider</u>, 835 F.2d 769, 774 (10th Cir. 1987), <u>cert. denied</u>, 485 U.S. 980 (1988). A district court must follow the precedent of its circuit. <u>United States v. Spedalieri</u>, 910 F.2d 707, 709 n.2 (10th Cir. 1990).

The defendant also argues that the firearm in question was malfunctioning and did not in fact fire more than one shot with a single trigger pull "automatically". In view of contrary evidence presented at trial by the government, the Court submitted these factual questions to the jury. Obviously, the jury was not persuaded. The Court, viewing the evidence in the light most

favorable to the government, sees no basis for reversal. See United States v. Peveto, 881 F.2d 844, 860 (10th Cir.), cert. denied, 110 S.Ct. 348 (1989).

Next, defendant argues that ATF Ruling 81-4, which held that an AR-15 could be converted to a machinegun with the addition of the "auto sear" renders the present prosection a violation of due process. He argues, in essence, that the agency should have published a supplement to Ruling 81-4 making clear that an AR-15 (i.e., some AR-15 rifles with M-16 parts) could be considered a machinegun even without the auto sear.

The Court disagrees, based upon <u>United States v. Green</u>, 515 F.Supp. 517 (D.Md. 1981), the decision cited by defendant, and the cases cited therein. In <u>Green</u>, the court made clear that published ATF rulings, pursuant to 27 C.F.R. §71.41(d), merely provide precedent for ATF decisions in other cases. They are not binding upon a court when they are contrary to the clear intent of Congress as expressed by the plain language of the statute. 515 F.Supp. at 520-21. Broad language in a criminal statute may have been enacted with a view that prosecutorial discretion will refrain from bringing indictments under certain facts. Whether this Court agrees with the exercise of that discretion is irrelevant. The Court has concluded that the prosecution in question falls within the language of the statute, and that the conviction should stand.

¹Defendant's citation of <u>York v. Secretary of the Treasury</u>, 774 F.2d 417 (10th Cir. 1985) is inapposite, as it involved a civil proceeding. Deference to an agency interpretation is not implicated regarding criminal statutes. See Crandon v. United States, 110 S.Ct. 997, 1011 (1990) (Scalia, J., concurring).

Finally, defendant argues for acquittal because he possessed the firearm before the effective date of 18 U.S.C. §922(0). Defendant was not charged with violation of this statute, and its application is irrelevant.

It is the Order of the Court that the motion of the defendant to set aside verdict and enter judgment of acquittal is hereby DENIED.

IT IS SO ORDERED this _____ day of February, 1991.

Chief Judge, U. S. District Court

Melsook